

CECW-PE (10-1-7a)

23 December 1999

SUBJECT: Tule River Basin Investigation, California

THE SECRETARY OF THE ARMY

1. I submit for transmission to Congress my report on the study of flood damage reduction and agricultural water supply storage improvements for the Tule River Basin, California. It is accompanied by the report of the district and division engineers. These reports are in partial response to a resolution passed by the Committee on Public Works of the House of Representatives on 8 May 1964. This resolution requested review of the previous report on the Sacramento-San Joaquin Basin Streams, California, with a view towards determining whether any modification of the recommendations would be advisable, with particular reference to further coordinated development of the water resources of the San Joaquin River Basin, California.

2. Section 101(b) (4) of the Water Resources Development Act of 1999 (WRDA 1999), Public Law 106-53, authorized construction of the Success Dam, Tule River, California, project for flood damage reduction and water supply storage subject to completion of a favorable report of the Chief of Engineers not later than 31 December 1999 and subject to the conditions recommended in that final report. The authorizing language for this Success Dam/Tule River project reflects an earlier project cost estimate of \$17,900,000. The cost estimate for the project has been refined to reflect current information on the project conditionally authorized by section 101(b)(4) of WRDA 1999. This report constitutes the final report of the Chief of Engineers required by WRDA 1999.

3. The plan developed by the district engineer consists of raising the existing Success Dam spillway by 10 feet. Spillway modifications include the placing of an ungated 10-foot-high concrete ogee weir over the entire existing spillway sill and widening the spillway from 200 to 365 feet. The State Highway 190 bridge would receive measures to protect the lower structure and foundation from potential periodic inundation. Project impacts to existing recreation facilities would be offset through floodproofing of facilities, providing replacement parking, and extending and widening one of the three existing boat launching ramps. The project would provide both flood damage reduction and agricultural water supply benefits and would resolve dam safety concerns with the existing project. The plan includes the

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acquisition and management of about 900 acres of land for environmental mitigation. The plan also includes Government operation and maintenance of the project (except for the mitigation features) with funds provided in advance by the non-Federal sponsor. In support of this plan, the non-Federal sponsor will convey its interest in the lands required for the project to the Government; except for the mitigation lands, which will be retained by the non-Federal sponsor.

4. Based on October 1999 price levels, the total first cost of the recommended plan is estimated at \$20,963,000. Approximately \$1,023,000 of the total first cost is allocated to dam safety assurance program requirements of the existing project. The balance of the total first costs is allocated between flood damage reduction and agricultural water supply. All costs are joint use costs. Average annual benefits are estimated at \$2,058,000, and consist primarily of flood damage reduction benefits and agricultural water supply benefits. The average annual costs are estimated at \$1,746,000. The resulting benefit-to-cost ratio is 1.18, based on a discount rate of 6.875 percent and a 100-year period of economic analysis. The recommended plan is the national economic development plan.

5. Washington level review indicates that the recommended plan is technically sound, economically justified, and environmentally and socially acceptable. The plan conforms with essential elements of the U.S. Water Resources Council's Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies and complies with other administration and legislative policies and guidelines. Also, the views of interested parties, including Federal, State and local agencies have been considered.

6. I concur in the findings, conclusions, and recommendation of the reporting officers. Accordingly, I recommend implementation of the authorized project in accordance with the reporting officers' plan with such modifications as in the discretion of the Chief of Engineers may be necessary and advisable. I recommend cost sharing as required by Sections 103 and 1203 of the Water Resources Development Act of 1986, as amended by Section 202 of the Water Resources Development Act of 1996. Under these acts, costs allocated to flood control require a minimum non-Federal sponsor share of 35 percent and a Federal share of no more than 65 percent. The non-Federal sponsor for flood control, the California Reclamation Board, would provide a minimum of 5 percent of the total project costs allocated to flood control in cash and also provide all lands, easements, rights-of-way, including suitable borrow and dredged or excavated material disposal sites, and all relocations. Costs allocated to agricultural water supply require a non-Federal share of 35 percent from the water supply sponsor, the Tule River Association. Fifteen percent of the costs allocated to dam safety assurance require a non-Federal sponsor share in accordance with the cost sharing in effect at the time of initial construction of the project. Further, the non-Federal sponsors would be responsible for 100 percent of the increased operation, maintenance, repair, replacement and rehabilitation for the entire project. This recommendation is also subject to the non-Federal sponsors agreeing to comply with all applicable Federal laws and policies. Based on the recommended cost sharing, the Federal share of total project costs would be about

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\$13,970,000 and the non-Federal share of total project costs would be about \$6,993,000. The non-Federal cash contribution is estimated at \$1,443,000, with the balance consisting of \$5,550,000, for the estimated creditable costs for lands, easements, rights-of-way, relocations, and suitable borrow and dredged or excavated material disposal areas (LERRD). My recommendation is subject to the non-Federal sponsor agreeing to comply with applicable Federal laws and policies, including the following requirements:

a. Provide 35 percent of total project costs allocated to irrigation water supply, 1.425 percent of total project costs allocated to dam safety assurance, and a minimum of 35 percent but not to exceed 50 percent of total project costs allocated to structural flood control, as further specified below:

(1) Enter into an agreement which provides, prior to execution of the project cooperation agreement, 25 percent of design costs;

(2) Provide, during construction, any additional funds needed to cover the non-Federal share of design costs;

(3) Provide, during construction, a cash contribution equal to 5 percent of total project costs allocated to structural flood control;

(4) Provide all lands, easements, and rights-of-way, provide suitable borrow and dredged or excavated material disposal areas, and perform or assure the performance of all relocations determined by the Government to be necessary for the construction, operation, and maintenance of the project;

(5) Provide or pay to the Government the cost of providing all retaining dikes, waste weirs, bulkheads, and embankments, including all monitoring features and stilling basins, that may be required at any dredged or excavated material disposal areas required for the construction, operation, and maintenance of the project, and

(6) Provide, during construction, any additional costs as necessary to make its total contribution equal to 35 percent of total project costs allocated to irrigation water supply, 1.425 percent of total project costs allocated to dam safety assurance, and a minimum of 35 percent but not to exceed 50 percent of total project costs allocated to structural flood control.

b. Give the Government a right to enter, at reasonable times and in a reasonable manner, upon land which the local sponsor owns or controls for access to the project for the purpose of inspection, and, if necessary, for the purpose of completing, operating, maintaining, repairing, replacing, or rehabilitating the project.

c. The non-Federal sponsor will be responsible for 100 percent of the increased operating, maintaining, replacing, repairing, and rehabilitating cost for the recommended modifications.

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d. Comply with Section 221 of Public Law 91-611, Flood Control Act of 1970, as amended, and Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended, which provides that the Secretary of the Army shall not commence the construction of any water resources project or separable element thereof, until the non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element.

e. Hold and save the Government free from all damages arising for the construction, operation, maintenance, repair, replacement, and rehabilitation of the project and any project-related betterments, except for damages due to the fault or negligence of the Government or the Government's contractors.

f. Keep and maintain books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to the project to the extent and in such detail as would properly reflect total project costs.

g. Perform, or cause to be performed, any investigations for hazardous substances that are determined necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601-9675, that may exist in, on, or under lands, easements, or rights-of-way necessary for the construction, operation, and maintenance of the project, except that the non-Federal sponsor shall not perform such investigations on lands, easements, or rights-of-way that the Government determines to be subject to the navigation servitude without prior specific written direction by the Government.

h. Assume complete financial responsibility for all necessary cleanup and response costs of any CERCLA regulated materials located in, on, or under lands, easements, or rights-of-way that the Government determines necessary for the construction, operation, or maintenance of the project.

i. Agree that, as between the Federal Government and the non-Federal sponsor, the non-Federal sponsor shall be considered the operator of the project for the purpose of CERCLA liability, and, to the maximum extent practicable, operate, maintain, repair, replace, and rehabilitate the project in a manner that would not cause liability to arise under CERCLA.

j. Prescribe and enforce regulations to prevent obstruction of or encroachment on the project that would reduce the level of protection it affords or that would hinder operation or maintenance of the project.

k. Comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended by title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17),

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and the Uniform Regulations contained in 49 CFR part 24, in acquiring lands, easements, and rights-of-way, and performing relocations for construction, operation, and maintenance of the project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said act.

1. Comply with all applicable Federal and State laws and regulations, including Section 601 of the Civil Rights Act of 1964, Public Law 88-352, and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army," and Section 402 of the Water Resources Development Act of 1986, as amended (33 U.S.C. 701b-12), requiring non-Federal preparation and implementation of floodplain management plans.

m. Provide the non-Federal cost share of that portion of total cultural resource preservation mitigation and data recovery costs attributable to dam safety assurance, irrigation water supply and structural flood control that are in excess of 1 percent of the total amount authorized to be appropriated for dam safety assurance, irrigation water supply, and structural flood control.

n. Participate in and comply with applicable Federal floodplain management and flood insurance programs.

o. Do not use Federal funds to meet the non-Federal sponsor's share of total project costs unless the Federal granting agency verifies in writing that the expenditure of such funds is authorized.

p. Inform affected interests, at least annually, regarding the limitations of the protection afforded by the project.

q. Publicize floodplain information in the area concerned and provide this information to zoning and other regulatory agencies for their guidance and leadership in preventing unwise future development in the floodplain and in adopting such regulations as may be necessary to ensure compatibility between future development and protection levels provided by the project.

/ Signed/

JOE N. BALLARD
Lieutenant General, U.S. Army
Chief of Engineers